

REMARKS

SECTION 101 REJECTIONS

Claims 1-8, 10-14 and 16-43 were rejected under 35 U.S.C. §101 because the claimed invention was said to be directed to non-statutory subject matter. In particular, it was asserted that although the claims define computer-readable media, the specification defines computer-readable media as including carrier waves.

As indicated on page 6, lines 21-23, Applicants make a distinction between computer storage media and communication media. On page 6, line 28 to page 7, line 6, the specification further defines computer storage media as including RAM, ROM, EEPROM, flash memory or other memory technology, CD-ROM, a digital versatile disk (DVD) or other optical disk storage, magnetic cassettes, magnetic tape, magnetic disk storage or other magnetic storage devices, or any other medium which can be used to store the desired information and which can be accessed by computer 110. Such computer-storage media are distinguished from communication media, which are defined on page 7, lines 6-11 as comprising a modulated data signal such as a carrier wave or other transport mechanism. Thus, Applicants have distinguished computer storage media from communication media in the application. Since only communication media are defined in the specification as including a carrier wave, the current claims, which are directed to compute-readable storage media do not include such carrier waves. As such, the current claims are directed to patentable subject matter.

Further, a claim directed to a computer-readable storage medium provides efficient structural and functional interrelationship between the computer program and other claimed elements of a computer to permit the computer program's functionality to be realized. The Interim Guidelines specifically state that: "In contrast, a claimed computer-


readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1305," (MPEP 2106.01 I, paragraph 2).

Since a computer-readable storage medium encoded with computer-executable instructions is statutory under 35 U.S.C. §101, claims 1-8, 10-14 and 16-43 represent statutory subject matter. As such, claims 1-8, 10-14 and 16-43 are in form for allowance.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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